

House File 688 - Reprinted

HOUSE FILE 688
BY ADMINISTRATIVE RULES REVIEW
COMMITTEE

(SUCCESSOR TO HSB 81)

(As Amended and Passed by the House April 12, 2023)

A BILL FOR

- 1 An Act concerning the state rulemaking process, related matters
- 2 pertaining to agency functions, and including effective date
- 3 provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

RULEMAKING PROCEDURES AND RELATED MATTERS

Section 1. Section 2B.13, subsection 2, paragraphs b, d, and f, Code 2023, are amended to read as follows:

b. Correct references to rules or Code sections, or chapters or subunits of rules or Code sections, which are cited erroneously or have been repealed, amended, or renumbered.

d. Transfer, divide, or combine rules or parts of rules and add or amend catchwords to rules ~~and subrules~~ or parts of rules.

f. Update the address, telephone number, facsimile number, ~~or~~ electronic mail address, or internet site address of an agency, officer, or other entity.

Sec. 2. Section 2B.17, subsection 5, paragraph a, Code 2023, is amended to read as follows:

a. The Iowa Administrative Bulletin shall be cited as the IAB, with references identifying the volume number which may be based on a fiscal year cycle, the issue number, the publication date, and the ARC number assigned to the rulemaking document by the administrative rules coordinator pursuant to section 17A.4 or 17A.5. Subject to the legislative services agency style manual, the citation may also include the publication's page number.

Sec. 3. Section 17A.2, subsection 1, Code 2023, is amended to read as follows:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly or any of its components, the judicial branch or any of its components, the office of consumer advocate, the governor, or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency constitute a quorum authorized to act in the name of the agency.

Sec. 4. Section 17A.2, subsection 11, paragraph g, Code

1 2023, is amended to read as follows:

2 *g.* A specification of the prices to be charged for goods or
3 services sold by an agency as distinguished from a license fee,
4 application fee, or other fees as described in section 17A.6C.

5 Sec. 5. Section 17A.4, subsection 1, paragraph a, Code 2023,
6 is amended to read as follows:

7 *a.* Give notice of its intended action by submitting
8 the notice to the administrative rules coordinator and
9 the administrative code editor. The administrative rules
10 coordinator shall assign an ARC number to each rulemaking
11 document. The administrative code editor shall publish each
12 notice meeting the requirements of *this chapter* in the Iowa
13 administrative bulletin created pursuant to section *2B.5A*. The
14 legislative services agency shall ~~also submit a copy of the~~
15 ~~notice to provide~~ the chairpersons and ranking members of the
16 appropriate standing committees of the general assembly a means
17 to receive an electronic copy of the notice for additional
18 study. Any notice of intended action shall be published at
19 least thirty-five days in advance of the action. The notice
20 shall include a statement of either the terms or substance of
21 the intended action or a description of the subjects and issues
22 involved, and the time when, the place where, and the manner in
23 which interested persons may present their views.

24 Sec. 6. Section 17A.4, subsection 8, Code 2023, is amended
25 to read as follows:

26 8. Upon the vote of two-thirds of its members, the
27 administrative rules review committee, following notice of
28 intended action as provided in *subsection 1* and prior to
29 adoption of a rule pursuant to that notice, may suspend ~~further~~
30 ~~action relating to~~ the agency from adopting that notice for
31 seventy days. Notice that adoption of a notice of intended
32 action was suspended under this provision shall be published in
33 the Iowa administrative code and bulletin.

34 Sec. 7. Section 17A.5, subsection 1, Code 2023, is amended
35 to read as follows:

1 1. Each agency shall file each rule adopted by the agency
 2 with the office of the administrative rules coordinator and
 3 provide an exact copy to the administrative code editor. The
 4 administrative rules coordinator shall assign an ARC number to
 5 each rulemaking document. The administrative ~~rules coordinator~~
 6 code editor shall keep a permanent electronic register of the
 7 rules open to public inspection. The administrative code
 8 editor shall publish each rule adopted in accordance with this
 9 chapter in the Iowa administrative code.

10 Sec. 8. Section 17A.6, Code 2023, is amended to read as
 11 follows:

12 **17A.6 Publications — copy of standards adopted by reference.**

13 01. For purposes of subsections 2 through 5, unless the
 14 context otherwise requires:

15 a. "Adopt by reference" or "adoption by reference" means
 16 incorporating the text of a cited publication, or a part
 17 thereof, into a rule without including the text of the
 18 publication in the rule.

19 b. "Publication" does not include the Iowa Code, Iowa Acts,
 20 Iowa administrative code, Iowa court rules, or uniform rules on
 21 agency procedure.

22 1. The administrative code editor shall publish the Iowa
 23 administrative bulletin and the Iowa administrative code as
 24 provided in [section 2B.5A](#).

25 2. An agency ~~which~~ that adopts standards by reference to
 26 another publication shall deliver ~~an electronic~~ a printed copy
 27 of the publication, or the relevant part of the publication,
 28 containing the standards to the administrative code editor
 29 who shall ~~publish it on the general assembly's internet site.~~
 30 ~~If an electronic copy of the publication is not available,~~
 31 ~~the agency shall deliver a printed copy of the publication to~~
 32 ~~the administrative code editor who shall deposit the copy in~~
 33 ~~the state law library where it~~ which shall ~~be made~~ make it
 34 available for inspection and reference. The agency may instead
 35 deposit a printed copy of the publication, or the relevant part

1 of the publication, in the state law library directly. This
 2 subsection does not apply to a publication that is a federal
 3 statute or regulation.

4 3. In lieu of the procedures established in subsection 2,
 5 an agency may establish alternative procedures providing for
 6 public access to an electronic or printed copy of a publication
 7 containing standards adopted by reference if the publication is
 8 proprietary or contains proprietary information.

9 4. An agency that adopts standards by reference to another
 10 publication or a part thereof shall include as part of the
 11 reference a date certain, edition or amendment number, or other
 12 information identifying the specific version of the publication
 13 or the specific point in time from which the text of the
 14 publication can be determined. The adoption of standards by
 15 reference to another publication or a part thereof shall not
 16 include adoption of any amendment, edition, or version of the
 17 publication subsequent to the effective date of the adoption.

18 5. An agency shall include in the preamble to each rule
 19 submitted pursuant to section 17A.4 or 17A.5 that adopts
 20 standards by reference to another publication or part thereof a
 21 brief explanation of the content of the publication or part.
 22 If such a rule updates a reference to a publication previously
 23 adopted by reference, the agency shall include in the preamble
 24 a brief explanation of any significant changes in the content
 25 of the publication or part.

26 Sec. 9. NEW SECTION. 17A.6C **Agency fees — rules.**

27 When an agency establishes the amount of a license fee,
 28 application fee, or other fee, including any subsequent
 29 increase or decrease in the amount, the amount shall be
 30 specified in a notice of intended action and a rule adopted
 31 by the agency. This section does not apply when the amount
 32 of a fee is specifically established or described in the Iowa
 33 Code, Iowa Acts, or Iowa court rules, or by federal law. This
 34 section shall not be construed to authorize an agency to
 35 establish a fee without statutory authority.

1 Sec. 10. Section 17A.8, subsection 9, Code 2023, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *c.* Notice of an effective date that was
4 delayed or of applicability that was suspended under this
5 provision shall be published in the Iowa administrative code
6 and bulletin.

7 Sec. 11. Section 17A.8, subsection 10, paragraph b, Code
8 2023, is amended to read as follows:

9 *b.* Notice of an effective date that was delayed or of
10 applicability that was suspended under this provision shall be
11 published in the Iowa administrative code and bulletin.

12 Sec. 12. Section 256.54, subsection 2, paragraph b, Code
13 2023, is amended to read as follows:

14 *b.* Maintain, as an integral part of the law library,
15 reports of various boards and agencies, copies of bills,
16 journals, other information relating to current or proposed
17 legislation, ~~and~~ copies of the Iowa administrative bulletin
18 and Iowa administrative code and, consistent with section
19 17A.6, subsection 2, copies of any publications incorporated by
20 reference in the bulletin or code.

21 Sec. 13. NEW SECTION. **505.35 Adoption of standards by**
22 **reference — rules.**

23 Rules adopted by the commissioner pursuant to chapter 17A
24 that adopt a standard by reference to another publication or
25 portion thereof are exempt from the requirements of section
26 17A.6, subsection 4, with respect to the following:

27 1. Professional standards of practice and membership
28 requirements established by the actuarial standards board,
29 the American academy of actuaries, the American institute of
30 certified public accountants, or their successor organizations.

31 2. The following publications of the national association
32 of insurance commissioners:

33 *a.* Valuation manual used to establish principle-based
34 reserves for the life insurance industry.

35 *b.* Accounting practices and procedures manual.

1 *c.* Financial examiners handbook.

2 *d.* Financial analysis handbook.

3 *e.* Annual/quarterly financial statement blank and
4 instructions.

5 Sec. 14. EFFECTIVE DATE. This division of this Act takes
6 effect January 1, 2024.

7 DIVISION II

8 AGENCY STATUTES AND RULES

9 Sec. 15. Section 7E.7, subsection 2, Code 2023, is amended
10 by striking the subsection.

11 Sec. 16. Section 12.28, subsection 1, paragraph b, Code
12 2023, is amended to read as follows:

13 *b.* “*State agency*” means a board, commission, bureau,
14 division, office, department, or branch of state government.
15 However, state agency does not mean the state board of regents,
16 institutions governed by the board of regents, or authorities
17 created under [chapter 16](#), ~~257C~~, or [261A](#).

18 Sec. 17. Section 12.30, subsection 1, paragraph a, Code
19 2023, is amended to read as follows:

20 *a.* “*Authority*” means a department, or public or quasi-public
21 instrumentality of the state including but not limited to the
22 authority created under [chapter 12E](#), [16](#), ~~257C~~, or [261A](#), which
23 has the power to issue obligations, except that “*authority*”
24 does not include the state board of regents or the Iowa
25 finance authority to the extent the Iowa finance authority acts
26 pursuant to [chapter 260C](#). “*Authority*” also includes a port
27 authority created under [chapter 28J](#).

28 Sec. 18. Section 15E.63, subsection 11, Code 2023, is
29 amended to read as follows:

30 11. The board shall adopt rules pursuant to chapter
31 17A necessary to administer the duties of the board. The
32 department of revenue may adopt rules pursuant to chapter 17A
33 related to the duties of the board or this chapter.

34 Sec. 19. REPEAL. Chapter 257C, Code 2023, is repealed.

35 Sec. 20. RESCISSION OF ADMINISTRATIVE RULES.

1 1. The following Iowa administrative rules are rescinded as
2 of July 1, 2023:

3 a. 285 Iowa administrative code, chapter 1.

4 b. 791 Iowa administrative code, chapter 1.

5 2. As soon as practicable after July 1, 2023, the Iowa
6 administrative code editor shall remove the language of the
7 Iowa administrative rules referenced in subsection 1 of this
8 section from the Iowa administrative code.